

DETAILED ACTION

This is a final Office action. Claims 1-6 are cancelled. Claim 7 and new claim 8 are pending and examined.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 recites the limitation "said electrical devices and equipment" in paragraph 5. There is insufficient antecedent basis for this limitation in the claim. The statement "for mounting electrical devices and equipment" in line 1 is a statement of functional use and does not positively recite the "electrical devices and equipment". Based on the disclosure, the examiner interpreted the limitation in claim 7 as "said electrical devices and equipment support".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen (U.S. Patent No. 4,519,657) in view of Greene (U.S. Patent No. 6,284,336) and Jordan (U.S. Patent No. 6,422,783).

Claim 7: Jensen discloses a process by forming a pedestal assembly that does not require concrete anchoring including

forming an electrical device and equipment support (Fig 15: 52 and 55) including a hollow rectangular post (Fig. 16, which is an obvious variant of Fig. 15 to one of ordinary skill in the art at the time the invention was made, and they function in an equivalent manner) having load bearing walls (65) defining exterior and interior surfaces and first and second open ends (proximate 81 and 62 respectively), a reinforcing cap (79) constructed for insertion within the first open end (proximate 81), the cap engages the interior surface of the post to prevent movement of the exterior surface (any contact surface with the inside surface is a "frictional engagement"), and retention means (proximate 81) arranged for retaining the cap within the post, and bolting electrical device and equipment support to the exterior surface using through bolts (see Fig. 15 where 52 is attached with bolts). While Jensen appears to disclose a single bolt securing the device, it does not disclose a plurality of bolts. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of duplication of parts to have this limitation because duplication of parts has no patentable significance unless a new and unexpected result is produced. *In re Harza*, 274 F.2d 669 (CCPA 1960). See MPEP §2144.04. Further, Jensen discloses that the body (65) may be made of polyester or fiberglass resin (Col. 3,

lines 57-63), but it does not disclose the body is polyester cloth veiled with fiberglass resin. Greene discloses a post made of polyester cloth with fiberglass resin (Col. 3, lines 28-35). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to make the post in Jensen in the manner of Greene because while Jensen discloses the body is made of polyester or fiberglass resin, a polyester cloth would aid in ease of production of manufacturing the pedestal by aiding the maintaining of its shape and the fiberglass resin would be an obvious bonding agent for the cloth. Further Jensen does not disclose the load bearing limitation and meeting the building code standards. It would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to design the post in Jensen to hold 18 times the weight of the assembly in order to function properly without failure, and the prior art of record is capable of being designed to meet these limitations. Lastly, Jensen does not disclose placing the pedestal in the ground, though Jensen does have a frangible base (Col. 2, lines 49-62). Jordan discloses a post (Fig. 1-A) with a frangible base (27, 37) that has an extension into the ground (25). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use the

frangible mechanism in Jordan with the post in Jensen in order to anchor the system better with the ground, and one of ordinary skill in the art would implant the pedestal in the ground at the depth range as claimed in order for the pedestal to remain upright. While the prior art cited discloses the use of concrete to anchor the system, concrete is not a necessary feature to anchor the post if one were to place it in the ground. While concrete is probably a preferred anchoring means, it is not necessary.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen in view of Greene, Jordan and Fawley (U.S. Publication No. 2002/0095905).

Claim 8: Jensen in view of Green and Jordan discloses the claimed invention except that the polyester resin is not an isophthalic polyester resin. Fawley discloses a shaft made of isophthalic polyester resin (paragraph 0034, lines 7-10). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to use isophthalic polyester resin with the invention in Greene because the polyester used in Greene is inclusive of isophthalic polyester resin as disclosed in Fawley and would perform adequately as the resin. Further, it is well known in the art that isophthalic

polyester resin typically has a higher tensile and compressive strengths versus non-isophthalic polyester resins. While the examiner agrees with the disclosure cited by the applicant in the Fawley reference regarding the percentage of glass by weight, the examiner respectfully notes that applicant claims the limitation as follows: from about 56.5% to about 61% glass by weight. The Fawley reference discloses a mix of about 70% (paragraph 0039). The examiner respectfully contends that the use of the limitation "about" provides flexibility and the Fawley reference can overlap the applicant's limitation. See MPEP 2173.05(b).

Response to Arguments

3. The following addresses applicant's remarks/arguments dated 22 June 2009:

Claim rejection - 35 USC §103:

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as applicant amended the claims.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be

reached on 571.272.6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. V. G./
Examiner, Art Unit 3635
/Basil Katcheves/
Primary Examiner, Art Unit 3635